

**Senator Scott D. McCoy** proposes the following substitute bill:

**HOME INSPECTION STANDARDS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. McCoy**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates requirements for home inspections and inspectors.

**Highlighted Provisions:**

This bill:

- defines terms;
- describes home inspection requirements;
- prohibits certain conduct by inspectors and others;
- limits the time in which an action may be brought for a violation of inspection standards and other provisions;
- requires an associate home inspector to use the term "associate home inspector" on various materials, including inspection reports and advertising; and
- requires inspectors to register with the Division of Real Estate.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:



26        **61-2e-101**, Utah Code Annotated 1953  
27        **61-2e-102**, Utah Code Annotated 1953  
28        **61-2e-201**, Utah Code Annotated 1953  
29        **61-2e-202**, Utah Code Annotated 1953  
30        **61-2e-203**, Utah Code Annotated 1953  
31        **61-2e-204**, Utah Code Annotated 1953  
32        **61-2e-301**, Utah Code Annotated 1953

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34        *Be it enacted by the Legislature of the state of Utah:*

35        Section 1. Section **61-2e-101** is enacted to read:

36                    **CHAPTER 2e. UTAH HOME INSPECTION TRADE PRACTICES**

37                                    **Part 1. General Provisions**

38        **61-2e-101. Title.**

39        This chapter is known as "Utah Home Inspection Trade Practices."

40        Section 2. Section **61-2e-102** is enacted to read:

41        **61-2e-102. Definitions.**

42        As used in this chapter:

43        (1) "Associate home inspector" means an inspector who:

44        (a) has performed fewer than 200 home inspections for a fee;

45        (b) performs a home inspection in accordance with this chapter;

46        (c) is a member in good standing of a home inspector association; and

47        (d) passes a comprehensive home inspector competency examination approved by the

48        Division of Real Estate.

49        (2) "Home inspection" means a limited, visual, noninvasive examination, performed  
50        for a fee, of the readily accessible components of a residential dwelling, including:

51        (a) any mechanical system, such as plumbing, electrical, heating, or cooling;

52        (b) the dwelling's structure; or

53        (c) any other of the dwelling's essential components.

54        (3) "Home inspection report" means a written report prepared for a fee that is issued  
55        after a home inspection:

56        (a) describing and identifying any inspected mechanical system, structure, or other

57 components;

58 (b) describing any material defects identified during the home inspection;

59 (c) describing any recommendation concerning the conditions observed by the  
60 inspector; and

61 (d) making any recommendation for further evaluation by an appropriate professional.

62 (4) "Home inspector" means any person who:

63 (a) has performed 200 or more home inspections for a fee;

64 (b) performs a home inspection in accordance with this chapter;

65 (c) is a member in good standing of a home inspector association; and

66 (d) (i) passes a comprehensive home inspector competency examination approved by  
67 the Division of Real Estate; or

68 (ii) before January 1, 2007, passes a home inspector association proctored competency  
69 examination for which the person paid a fee.

70 (5) "Home inspector association" means an association:

71 (a) requiring that a member:

72 (i) meet annual continuing education requirements; and

73 (ii) adhere to standards of practice and a code of ethics in the performance of a home  
74 inspection to maintain membership in good standing; and

75 (b) that has existed for three years.

76 (6) (a) "Inspector" means an associate home inspector or home inspector who performs  
77 a home inspection in accordance with this chapter.

78 (b) "Inspector" does not mean a person hired to conduct any type of inspection on  
79 behalf of a governmental entity.

80 (7) (a) "Material defect" means a condition that significantly affects the value,  
81 desirability, habitability, or safety of a residential dwelling.

82 (b) "Material defect" does not include style or aesthetic qualities.

83 (8) "Readily accessible" means available for visual inspection without requiring  
84 dismantling, destructive measures, the movement of personal property, or any action likely  
85 involving risk to a person or property.

86 Section 3. Section **61-2e-201** is enacted to read:

87 **Part 2. Home Inspections**

**61-2e-201. Home inspection requirements.**

(1) An inspector shall perform a home inspection in accordance with the standards of practice and code of ethics of the home inspector association of which the inspector is a member.

(2) Nothing in this chapter prevents an inspector from:

(a) including inspection services, systems, or components other than those minimally required by the applicable standards of practice and code of ethics; or

(b) excluding a system or component from the home inspection if the inspector's client requests the exclusion.

(3) A person may not perform a home inspection unless the person is a home inspector or an associate home inspector.

Section 4. Section **61-2e-202** is enacted to read:

**61-2e-202. Prohibited conduct -- Exceptions.**

(1) It is a class C misdemeanor for an inspector, an inspector's employer, or a person with a financial interest in a business employing an inspector to knowingly or intentionally:

(a) inspect or allow an employee to inspect, for a fee any property in which the inspector or the inspector's employer has a financial interest or an interest in the property's transfer;

(b) offer or deliver any compensation, inducement, or reward to the owner of the inspected property or a broker or agent for the referral of any business to the inspector or the inspector's employer;

(c) accept an engagement to make a home inspection or to prepare a home inspection report if the employment or fee for the inspection is contingent upon the conclusions of the home inspection report; or

(d) perform, or offer to perform, for an additional fee any repairs covered by a home inspector association's standards of practice within 12 months after the date of a home inspection performed by that inspector, or that inspector's employer.

(2) (a) A person providing warranty-type home protection services that is affiliated with, or that employs, an inspector does not violate this section if the person performs repairs based on a claim made on a contract for warranty-type home protection services.

(b) A structural pest control operator may perform repairs without violating this

chapter.

Section 5. Section **61-2e-203** is enacted to read:

**61-2e-203. Limitation of action.**

A person damaged by an inspector's, or other person's, violation of this chapter shall commence an action under this chapter no later than one year after the day on which the home inspection was performed.

Section 6. Section **61-2e-204** is enacted to read:

**61-2e-204. Associate home inspectors' advertising.**

An associate home inspector shall use the term "associate home inspector" on:

- (1) any inspection contract;
- (2) the signature found on the home inspection report;
- (3) all business correspondence; and
- (4) all advertising materials, including the associate home inspector's Internet site.

Section 7. Section **61-2e-301** is enacted to read:

**Part 3. Division of Real Estate**

**61-2e-301. Division of Real Estate -- Registration -- Business license -- Examination.**

(1) (a) The Division of Real Estate shall establish procedures to allow inspectors to register with the division.

(b) To register with the Division of Real Estate, a person shall include proof that:

- (i) the person has passed the examination approved under Subsection (3); and
- (ii) the person is a current member of a home inspector association.

(2) A municipality or other entity may not issue a business license to, or renew a business license for, a person whose business includes the performance of a home inspection unless the person has first registered as an inspector with the Division of Real Estate.

(3) The Division of Real Estate shall approve a comprehensive home inspector competency examination that is developed and administered consistent with:

(a) guidelines established by the:

- (i) Council on Licensing, Enforcement and Regulation;
- (ii) American Education Research Association; and
- (iii) federal Equal Employment Opportunity Commission's "Uniform Guidelines for

150 Employee Selection Procedures;

151 (b) the federal Civil Rights Act of 1991; and

152 (c) the federal Americans with Disabilities Act of 1990.

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**Fiscal Note****Home Inspection Standards***30-Jan-06***Bill Number SB0044S01***10:18 AM*

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**State Impact**

Revenue is based on an estimate of 300 home inspectors paying a \$200 fee. Expenses are based on the hiring of an Office Technician II.

	<u><b>FY 2007</b></u> <u><b>Approp.</b></u>	<u><b>FY 2008</b></u> <u><b>Approp.</b></u>	<u><b>FY 2007</b></u> <u><b>Revenue</b></u>	<u><b>FY 2008</b></u> <u><b>Revenue</b></u>
Commerce Service Fund	\$46,500	\$44,200	\$30,000	\$30,000
<b>TOTAL</b>	<b>\$46,500</b>	<b>\$44,200</b>	<b>\$30,000</b>	<b>\$30,000</b>

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**Individual and Business Impact**

Home inspectors will pay a \$200 fee to the state and will also pay to take the qualifying exam.

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**Office of the Legislative Fiscal Analyst**